

SECOND REGULAR SESSION

# SENATE BILL NO. 1272

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEDY.

Read 1st time February 28, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5388S.011

## AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to the treatment of quality of care data, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.1405, to read as follows:

**376.1405. 1. As used in this section the following terms mean:**

- (1) "Health care provider", as defined in section 376.1350;**
- (2) "Health carrier", as defined in section 376.1350;**
- (3) "Quality of care data", data intended to measure the quality of health care services delivered by a specific health care provider.**

**2. A contract between a health carrier and a health care provider shall not require the provider to submit quality of care data to the health carrier as a condition of payment for medical services rendered, unless such data is included in the set of quality of care indicators selected by the federal Centers for Medicare and Medicaid Services for disclosure in comparative format to the public. The provisions of this section shall not be construed to limit the health carrier's ability to:**

- (1) Abstract quality of care data from billing data submitted by the provider; or**
- (2) Collect data necessary to comply with federal or state law or regulation or accreditation standards; or**
- (3) Collect data from health care providers for whom the Centers for Medicare and Medicaid Services has not implemented quality of care indicators for disclosure in comparative format.**

**3. Any person who sells or otherwise distributes to the public quality of care data shall, if the product includes data that is not**

22 included in the set of quality of care indicators selected by the federal  
23 Centers for Medicare and Medicaid Services for disclosure in  
24 comparative format to the public:

25 (1) Include the following disclaimer on the information  
26 distributed: "These data includes quality of care indicators other than  
27 those used by the federal Centers for Medicare and Medicaid Services  
28 and as such may be based on research methodologies that deviate from  
29 the those used by that agency."; and

30 (2) Identify what peer review process, if any, was used to confirm  
31 the validity of the data and its analysis as an objective indicator of  
32 health care quality; and

33 (3) Indicate whether health care providers identified in the  
34 information were consulted regarding its development and data  
35 analysis standards; and

36 (4) Give such health care providers the opportunity to comment  
37 on data made available to the public; and

38 (5) At the option of the provider, include such provider  
39 comments with the publicly disclosed information if the seller or  
40 distributor of the information declines to make changes based on such  
41 comments; and

42 (6) Post on their website the methodology, including all formulas  
43 sufficient to replicate data produced by quality of care indicators not  
44 used by the federal Centers for Medicare and Medicaid Services.

45 4. Article or research studies on the topic of quality of care  
46 assessment that are published in peer-reviewed academic journals shall  
47 be exempt from the requirements of subsection 3 of this section.

48 5. Programs of health carriers to assess and compare the  
49 performance and efficiency of health care providers shall conform to  
50 the following requirements:

51 (1) If a consolidated provider performance indicator includes  
52 measures of both quality of performance and cost-efficiency, the weight  
53 giver to each type of measure shall be disclosed;

54 (2) The relative weight of each quality of performance indicator  
55 to the overall rating shall be disclosed;

56 (3) Providers shall be notified at least forty-five days prior to the  
57 implementation of a quality of performance or cost-efficiency  
58 measure. The notification shall include a description of the process for

59 using the quality of performance or cost-efficiency measure or  
60 measures;

61 (4) Quality of performance or cost efficiency data shall reflect  
62 appropriate risk adjustment to account for the characteristics of the  
63 patients treated by the health care provider. Such risk adjustment  
64 shall include, but not be limited to, case mix, severity of the medical  
65 condition, co-morbidities, and outlier episodes;

66 (5) When multiple providers are involved in a patient's  
67 treatment, quality of performance indicators shall disclose the  
68 methodology for determining which health care provider will be held  
69 accountable for a patient's care;

70 (6) In disclosing comparative data, health carriers shall  
71 prominently state that performance rankings are only a guide in  
72 choosing a health care provider and that such rankings are based on  
73 statistical analysis and as such have a risk of error;

74 (7) Health care providers shall have the right to review quality  
75 of performance and cost-efficiency data prior to their disclosure. If a  
76 health care provider files a timely appeal following such review, the  
77 health carrier shall not post the quality of performance or cost-  
78 efficiency data until the appeal is completed; and

79 (8) Quality of performance and cost-efficiency data shall be  
80 designed to compare like types of health care providers within the  
81 appropriate geographic market.

82 6. Alleged violations of this section by a health carrier shall be  
83 investigated and enforced by the department of insurance, professional  
84 registration and financial institutions under its powers and  
85 responsibilities to enforce the insurance laws of this state in  
86 accordance with chapter 374, RSMo.

87 7. Upon receipt of a complaint of an alleged violation of the  
88 provisions of this section by a person or entity other than a health  
89 carrier, the department of health and senior services shall investigate  
90 the complaint and, upon finding that a violation has occurred, shall be  
91 authorized to levy a civil fine in an amount not to exceed one thousand  
92 dollars. The department shall promulgate rules and regulations  
93 governing its processes for conducting such investigations and levying  
94 fines pursuant to law. Any rule or portion of a rule, as that term is  
95 defined in section 536.010, RSMo, that is created under the authority

96 delegated in this section shall become effective only if it complies with  
97 and is subject to all of the provisions of chapter 536, RSMo, and, if  
98 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,  
99 are nonseverable and if any of the powers vested with the general  
100 assembly pursuant to chapter 536, RSMo, to review, to delay the  
101 effective date, or to disapprove and annul a rule are subsequently held  
102 unconstitutional, then the grant of rulemaking authority and any rule  
103 proposed or adopted after August 28, 2008, shall be invalid and void.

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Unofficial

Bill

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